



May 3, 2013

# *Fayette County School Corporation*

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## **REQUEST FOR REVIEW**

**CC Docket No 02-6**

**E-Rate Appeal Filed Electronically via the FCC ECFS System**

**Marlene H. Dortch, Secretary**

Federal Communications Commission

Office of the Secretary

445 12th Street SW

Washington, DC 20554

### **Information**

Applicant Name:	Maplewood Elementary School
Billed Entity Number:	53140
Funding Year:	2011
Form 471 Application:	803283
Funding Request Number:	2177183
Service:	Internal Connections
Service Provider:	Bell Industries, Inc. (SPIN # 143004426)

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To Whom It May Concern:

This is an appeal of the denial of the Administrator's Decision on Appeal – Funding Year 2011 – dated March 26, 2013, in connection with FRN 2177183 on 471 Application Number 803283. A copy of the Administrator's Decision of Appeal is attached hereto as Exhibit B.

### **Text Being Requested for Review:**

- In accordance with FCC Report and Order (FCC 01-195) released on June 29, 2001, in order to provide additional time to implement contracts or agreements with service providers for non-recurring services, applicants must submit documentation to the Administrator requesting relief on or before the original non-recurring services deadline.

Your appeal has not brought forth clear information establishing that application for relief was made prior to this deadline. Therefore your appeal is denied.

### **Appeal Review Request:**

Maplewood Elementary School is appealing USAC's denial of FRN 2177183, on the premise that Maplewood Elementary School provided in its appeal to USAC, and provides with this FCC appeal, clear information establishing that application for relief was made prior to the September 30, 2012 deadline and that the information was acknowledged by USAC on September 11, 2012 through the issuance of the Form 500 Notification Letter.

It was our belief that filing the FCC Form 500 to extend the Service Provider's Contract Expiration Date also served as the action to extend the Service and Implementation Deadline.

Maplewood Elementary School believes according to the attached Exhibits, USAC erred in denying support and the school believes special consideration to Exhibits A, C, D, E and F provide documentation that it provided clear information establishing that application for relief was made prior to this deadline. There is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, the school believes that the denial of E-Rate funds for the full funding year inflicts undue hardship and approval for FRN 2177183 would better serve the public interest.

FCC Report and Order (FCC 01-195) Released on June 29, 2001, provides that applicants will qualify for an extension of the implementation deadline for non-recurring services if they satisfy one of the following criteria: (1) applicants whose funding commitment decision letters are issued by the Administrator on or after March 1 of the funding year for which discounts are authorized; (2) applicants who receive service provider change authorizations or service substitution authorizations from the Administrator on or after March 1 of the funding year for which discounts are authorized; (3) applicants whose service providers are unable to complete implementation for reasons beyond the service provider's control; or (4) applicants whose service providers are unwilling to complete installation because funding disbursements are delayed while the Administrator investigates their application for program compliance.

We believe that criteria #3 was met on 08/23/12 when Jane Kellam-Tollett – Director of Finance – Fayette County School Corporation informed her AdTec E-Rate contact, that the work to be completed by Bell Industries Inc. pertaining to FY 2011 - FRN 2177183 – would not be completed within the July 1, 2011 to September 30, 2012 E-Rate window for Priority 2 work due to a change in school personnel resulting in the hiring of a new Director of Technology. The applicant requested that the service provider delay installation until a new Director of Technology was in place and had time to get up to speed on the project. The delay associated with the hiring of a new Director of Technology by the applicant resulted in the service provider being unable to complete implementation for reasons beyond the service provider's control.

### **Attached documents which support The Request for Review:**

- **Exhibit A** – USAC Letter of Appeal – January 31, 2013 – We provided clear information establishing that application for relief was made prior to the deadline and that we met the criteria that the Service Provider was unable to meet implementation for reasons beyond the Service Provider's control.
- **Exhibit B** – Copy of Administrator's Decision on Appeal – March 26, 2013

**Exhibit C** – FCC Form 500 – Maplewood Elementary School– Block 3 Certification dated August 23, 2012

- **Exhibit D** – USAC Form 500 Notification Letter – Established Contract Expiration of September 30, 2013–DatedSeptember 11, 2012
- **Exhibit E** – USAC Form 500 Instructions – No indication of filing of extension for Service Delivery and Installation Date is requirement. Note: This could easily be included under the reminders section of the Form 500 instructions.  
<http://www.usac.org/res/documents/sl/pdf/forms/500i.pdf>
- **Exhibit F** –USAC Data Retrieval Tool – No field is provided to reference Service Delivery and Installation Date. Note: If the Service Delivery and Installation Date do not follow the Contract Expiration Date, then perhaps a specific field should be added to inform the applicant of inconsistency of dates.

## REQUEST FOR WAVIER OF FCC RULES

Maplewood Elementary School attempted in good faith to comply with Commission rules in a timely manner in seeking an extension of the deadline for non-recurring services. Maplewood Elementary School believes that it met the requirement for filing for the Contract Expiration Date extension because its Service Provider wasn't able to complete implementation for reasons beyond the service provider's control.

Maplewood Elementary School believes that it has demonstrated a good faith effort to comply with all program rules and to deny funding for FRN 2177183 would be an excessive penalty, given the spirit and intent of the program and our good faith efforts. I respectfully request a waiver of the rules with respect to which non-compliance is found by the Commission, and find it is in the public interest to provide the requested relief. Specifically, Maplewood Elementary School requests that the FCC find that Maplewood Elementary School complied with the requirements established for receiving an extension of established deadlines as prescribed by the FCC. I further request that the funding commitment be fully provided for FRN 2177183 and that the commission direct USAC to waive any associated invoice filing deadlines in connection with this service deadline extension and any other procedural deadlines that were missed while these issues were on appeal with the commission.

Thank you for your time and consideration. You are hereby authorized to contact our E-Rate Contact, Linda Sittloh, if you have questions concerning this appeal or require additional information. Her contact information is as follows:

Authorized person who can best discuss this Appeal:

Linda Sittloh

Phone: (866) 855-1845

AdTec, Inc

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PO Box 97

Email: [lindas@adtecerate.com](mailto:lindas@adtecerate.com)

Centerville, IN 47330

(preferred mode of contact)

Authorized Signature:



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Jane Kellam-Tollett – Director of Finance – Fayette County School Corporation